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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,383	07/30/2001	Stefaan Van Dyck	4532670/70200	9962

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EXAMINER

OH, TAYLOR V

ART UNIT	PAPER NUMBER
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1625

DATE MAILED: 12/16/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,383

Applicant(s)

DYCK, STEFAAN VAN

Examiner

Taylor Victor Oh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Final Rejection

The Status of Claims

Claims 1 and 3-13 are pending.

Claims 1 and 3-13 have been rejected.

Claim 2 has been canceled.

Claim Rejections - 35 USC 112

The rejection of claims 1-3 and 10-13 under 35USC 112, first paragraph, has been withdrawn due to applicants' convincing argument.

The rejection of claims 1 and 2 under 35USC 112, second paragraph, has been withdrawn due to applicants' convincing argument. However, with respect to claim 4, there is still an issue to be resolved.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "combinations thereof" is recited. However, according to the specification, there is no description as to what kind of base is mixed with another kind of base. Therefore, the phrase "combinations thereof" is unclear. Therefore, an appropriate correction is required.

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Claim Rejections - 35 USC 103

1. Applicants' argument filed 9/22/2003 have been fully considered but are persuasive.

Rejection of Claims 1 and 3-13 under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. 5,019,148) in view of Mori et al (U.S. 5,935,635).

The rejection of Claims 1, and 3-13 under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. 5,019,148) in view of Mori et al (U.S. 5,935,635) is maintained for the reasons of the record in paper no. 13.

Response to Argument

Applicants argue the following issues:

1. Moore teaches a granule binding cement formed by a combination of calcium oxide with phosphoric acid or sulfuric acid, which is insoluble in water, whereas the current invention is not directed to encapsulating an insoluble matrix ;
2. the addition of silica gel as taught by Mori et al to the Moore process would only result in the silica getting encapsulated in the same sulfate matrix ;
3. Moore actually teaches away from the current invention in that the use of sulfates and phosphate in animal feeds exacerbates the environmental impact of the resulting animal waste;

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4. The Moore process requires the use of high shear mixing , the organic acid to be pre-heated , the addition of water to cool the granules, the additional drying step;
5. there is no motivation to combine the Mori et al with the Moore since the Mori et al teaches the use of silica gel as an anti-caking agent whereas the Moore is directed to the production of a transient fluids adhesive, thereby making very dusty product;
6. the Mori et al and Moore teach the addition of an inert carrier after the formation of the granules unlike the present invention.

Applicants' arguments have been noted, but the arguments are not persuasive.

First, regarding the first, second, third, fourth, and fifth arguments , the Examiner has noted applicants' arguments. However, the Moore discloses not only the use of phosphoric acid and sulfuric acid, but also that of acetic acid and propionic acid which may result in the transient fluid products soluble in water; also, the soluble transient fluid products will reduce the environmental impact of the resulting animal waste. Furthermore, the Moore process is directed to an energy saving process which produces homogeneous mineral granules of animal feed supplements by commingling acids such as acetic, propionic, citric acid (see col. 6 ,lines 36-39) and bases such as the oxides, hydroxides of the alkaline earth metals and hydroxides of alkali metals (see

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col. 6 ,lines 45-49) to form a mixture in an exothermic reaction (see col. 4 ,lines 8-10), during which water is evaporated from the salts formed.

Moreover, Moore discloses expressly the method of producing homogeneous mineral granules of animal feed supplements by commingling acids and bases along with the addition of the inert solid. And Mori does teach the feed additive for animal feed containing amino acids and other fermentation product and the caking preventive agent such as silica gel , thereby improving flowability and anti-caking tendency of the obtained granular feed. Both have shared the same utility of making the animal feed. Therefore, it would have been obvious to the skillful artisan in the art to have motivated to incorporate the teaching of Mori's anti-caking silica gel into Moore's method of producing homogeneous mineral granules of animal feed supplements because the addition of Mori's anti-caking silica gel to Moore's method does improve the flowability and anti-caking tendency of the obtained granular animal feed with an expectation of a similar success as shown in the Mori reference.

Second, regarding the six argument , the Examiner has noted applicants' arguments. However, according to the Mori's process, it is possible to add an anti-caking agent before granulating (see col. 9 ,lines 42-55). Therefore, the prior art is still relevant to the claimed invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to T. Victor Oh whose telephone number is (703) 305-0809. The examiner can normally be reached on 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Rotman can be reached on (703) 308-4698. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

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12/13/03

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PRIMARY EXAMINER, Act 3 SP2
GROUP 1200 1625